

STATE OF MICHIGAN
COURT OF APPEALS

MICHELLE STEUART,

Plaintiff-Appellant,

v

LIEBERMAN PHOTOGRAPHY, INC. and LORI
LIEBERMAN,

Defendants-Appellees.

UNPUBLISHED

November 26, 2002

No. 236805

Oakland Circuit Court

LC No. 00-025323-CZ

Before: Markey, P.J., and Saad and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

After she was terminated from her position as officer manager with Lieberman Photography, Inc., plaintiff brought this action alleging that Lori Lieberman tortiously interfered with her employment. Lori Lieberman is a half owner of the corporation. The trial court granted defendants' motion for summary disposition, finding that Lori Lieberman was not a third party to the employment relationship.

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating the motion, the trial court considers affidavits, pleadings, depositions, admissions and other evidence submitted by the parties in a light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

To establish a prima facie case of tortious interference with a business relationship, a plaintiff must show: (1) the existence of a valid relationship, (2) knowledge of that relationship on the part of the interferer, (3) an intentional interference causing a breach of the relationship, and (4) resulting damage. *Lakeshore Community Hosp, Inc v Perry*, 212 Mich App 396, 401; 538 NW2d 24 (1995).

To maintain a tortious interference action, a plaintiff must establish that the defendant was a third party to the contract or business relationship. *Reed v Michigan Metro Girl Scout*

Council, 201 Mich App 10, 13; 506 NW2d 231 (1993). A corporate agent is not liable for tortious interference with the corporation's contracts unless she acted solely for her own benefit with no benefit to the corporation. *Id.* A plaintiff bears a heavy burden of showing that the defendant, as a corporate agent or officer, was acting outside the scope of her authority by interfering with the plaintiff's contractual relations without justification. *Coleman-Nichols v Tixon Corp*, 203 Mich App 645, 657; 513 NW2d 441 (1994).

As a half owner of the corporation, Lori Lieberman was not a third party to plaintiff's employment relationship. There is no showing that she acted outside the scope of her authority or had no justification for advocating plaintiff's dismissal.

Affirmed.

/s/ Jane E. Markey

/s/ Henry William Saad

/s/ Michael R. Smolenski